

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Khammesherma Smith,)	C/A No. 6:22-cv-02592-HMH-KFM
)	
Plaintiff,)	<u>ORDER</u>
)	
vs.)	
)	
Lt. Simon, Ofc. Issacs, Unknown)	
Inmate 1, Unknown Inmate 2,)	
)	
Defendants.)	
)	

This is a § 1983 action filed by a state prisoner. Therefore, in the event that a limitations issue arises, the plaintiff shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court). Under Local Civil Rule 73.02(B)(2) of the United States District Court for the District of South Carolina, pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

PAYMENT OF THE FILING FEE:

By filing this case, the plaintiff has incurred a debt to the United States of America in the amount of \$350.¹ See 28 U.S.C. § 1914. This debt is not dischargeable in the event the plaintiff seeks relief under the bankruptcy provisions of the United States Code. See 11 U.S.C. § 523(a)(17). The Prison Litigation Reform Act (PLRA) of 1996 permits a prisoner to file a civil action without prepayment of fees or security, but requires the prisoner "to pay the full amount of the filing fee" as funds are available. See 28 U.S.C. § 1915(a) and (b).

The plaintiff has submitted an Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240) and a Financial Certificate, which are construed as a motion for leave to proceed *in forma pauperis* (doc. 2). See 28 U.S.C. § 1915(a)(1), (2). A review of the Financial Certificate, which contains a consent to the collection of the filing fee from the prisoner's trust account, reveals that the plaintiff does not have sufficient funds to prepay the filing fee at this time. The unpaid portion of the filing fee is currently **\$350.00**.

The plaintiff's motion for leave to proceed *in forma pauperis* (doc. 2) is **granted**. As the Court has granted the plaintiff permission to proceed *in forma pauperis*, **the agency having custody of the plaintiff shall collect payments from the plaintiff's prisoner trust account in accordance with 28 U.S.C. § 1915(b)(1) and (2), until the full \$350 filing fee is paid.**

¹ Effective May 1, 2013, an administrative fee of \$50 was added to the filing fee of \$350. On December 1, 2020, the administrative filing fee increased to \$52. The \$52 administrative fee, however, is not applicable to *in forma pauperis* cases. See 28 U.S.C. § 1914.

TO THE CLERK OF COURT:

The Clerk of Court shall mail a copy of this order to the plaintiff.

The Clerk of Court shall not enter any change of address submitted by the plaintiff which directs that mail be sent to a person other than the plaintiff unless that person is an attorney admitted to practice before this Court who has entered a formal appearance.

The plaintiff's attention is directed to the important WARNING on the following page.

IT IS SO ORDERED.

s/ Kevin F. McDonald
United States Magistrate Judge

September 6, 2022
Greenville, South Carolina

IMPORTANT INFORMATION . . . PLEASE READ CAREFULLY WARNING TO PRO SE PARTY OR NONPARTY FILERS

ALL DOCUMENTS THAT YOU FILE WITH THE COURT WILL BE AVAILABLE TO THE PUBLIC ON THE INTERNET THROUGH PACER (PUBLIC ACCESS TO COURT ELECTRONIC RECORDS) AND THE COURT'S ELECTRONIC CASE FILING SYSTEM. **CERTAIN PERSONAL IDENTIFYING INFORMATION SHOULD NOT BE INCLUDED IN, OR SHOULD BE REMOVED FROM, ALL DOCUMENTS BEFORE YOU SUBMIT THE DOCUMENTS TO THE COURT FOR FILING.**

Rule 5.2 of the Federal Rules of Civil Procedure provides for privacy protection of electronic or paper filings made with the court. Rule 5.2 applies to **ALL** documents submitted for filing, including pleadings, exhibits to pleadings, discovery responses, and any other document submitted by any party or nonparty for filing. Unless otherwise ordered by the court, a party or nonparty filer should not put certain types of an individual's personal identifying information in documents submitted for filing to any United States District Court. If it is necessary to file a document that already contains personal identifying information, the personal identifying information should be "**blacked out**" or **redacted** prior to submitting the document to the Clerk of Court for filing. A person filing any document containing their own personal identifying information **waives** the protection of Rule 5.2(a) by filing the information without redaction and not under seal.

1. Personal information protected by Rule 5.2(a):

(a) Social Security and Taxpayer identification numbers. If an individual's social security number or a taxpayer identification number must be included in a document, the filer may include only the last four digits of that number.

(b) Names of Minor Children. If the involvement of a minor child must be mentioned, the filer may include only the initials of that child.

(c) Dates of Birth. If an individual's date of birth must be included in a document, the filer may include only the year of birth.

(d) Financial Account Numbers. If financial account numbers are relevant, the filer may include only the last four digits of these numbers.

2. Protection of other sensitive personal information – such as driver's license numbers and alien registration numbers – may be sought under Rule 5.2(d) (filings made under seal) and (e) (protective orders).